App. F. IX-4

Previous References

192 (etc.)

File No. 264-14.

Serial Nos.

Later References

General and Revenue Secretariat.

Serial Nos.

Part B for Jany 25.

SUBJECT

Draft Bill to amend the Code of Criminal Procedure so as to require (1) witnesses to sign their depositions in all cases (2) all Magistrates to write their judgements in Kannada.

D.J. Gentle 24.1.25

File

(For disposal at a Meeting)

No. C.37/

25/4/1916.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause ii of the Schedule).

Draft bill to amend Sub Section 1 of Sections 360 and 361 of the Code of Criminal Procedure, 1904, so as to require (1) witnesses to sign their depositions in all cases and (2) all Amildar-Magistrates to write their judgements in Kannada.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Narasinga Rao,

Secretary to Government.

29th April 1916.

Extraordinary Member of Council.

First Member of Council.

390.
2.5.16.

Second Member of Council.

WD 2012—GPB—1 000—9-2-16

For disposal at a Meeting.

No. C. 584.

Co. 5 1915.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Question of laying down that 2nd & 3rd class Magistrates should write their judgments in Kannada.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Narasimha Rao

8th May 1915.

Offg. *Secretary to Government.*

Extraordinary Member of Council. Seen by the Extraordinary Members of Council.

First Member of Council. Opinion recorded by the First Member of Council.

Second Member of Council. Seen by Second Member. 7/5

GPB—1,000—28-8-14

G R.S. 11] 191 [illegible]

GENERAL AND REVENUE SECRETARIAT.

(Cents)

NOTES.

File No. 264 [illegible]

FILE HEADING.

Judgments of 2nd & 3rd Class Magistrates to be written in Kannada (R.A. Subject No 4 11-13)

From

No. Dated Received

Diary No.		Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P.T.O.

NOTES—First Sheet.

GPB—35,000—15 6-12

Ch 264 [illegible]

47

SUBJECT No. 421.

Judgments of 2nd and 3rd Class Magistrates.

Messrs. A. Narasimhaiya and Lingegowda, Malvalli taluk.

Summary of Representation.—The practice of the 2nd and 3rd class Magistrates writing out their judgments in English is causing much inconvenience and loss to the parties in getting them translated into Kannada, especially in places where it is difficult to find English-knowing men. It is therefore desirable that the judgments be ordered to be written in Kannada.

H B 65-13

Notes

Chief Court. Chandrasekhara Aiyar J. Not necessary or expedient

Wallace J. I agree. When the codes, Law Reports, Commentaries &c are all in English judgments must also be in English

Vide Note. See 367 of the Code of Criminal Procedure authorises the present practice.

I submit with a draft

Bch 19.2.15 ML

ES 20/2/15

First Member)

2 I am not sure that the proposal is one which can be thus summarily dismissed. I should like to rule that at least all Amildar Magts should write judgts in Kannada. With a little practice they will be able to do so, with at least as great facility as in English. For that matter, there are many judgts in which the English is very slipshod. (May be considered at a meeting)

(* at any rate those to whom a special dispensation is not given)

Ch

21/2/15

[G. R. S. 12]

General and Revenue Secretariat.

Ch File No. 264 of 1914.

Serial No.

3) May this be circulated? Submitted for instructions

25/5

Secy

4) If the Diwan approves, this proposal will be circulated for consideration at a meeting of Council

Diwan

27/5

5735 -3-15

5) No objection

5.5.15.

6) C.S. as desired

14/5

19.5.15.

21/5/15

P.T.O.

NOTE—Contn. sheet.

GPB—25,000—2-11-14

GPB—1,000—19-7-13

Extract from the Proceedings of the 355th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 4th August 1915.

1. SUBJECT. - (Clause viii of the Schedule).

Question of laying down that 2nd and 3rd class Magistrates should write their judgments in Kannada.

OPINION OF THE COUNCIL.

7) **All Amildar-Magistrates may be required to write their judgments in Kannada.**

Sd. M. Visvesvaraya,
Dewan of Mysore.

"Extract"

D. M. narasinha Rao
Offg. Secretary to Govt.
Genl. Deptt.

DRA 421-10

5

G. R. S. 12]

General and Revenue Secretariat. | Cr. File No. 264 of 1914-15

Serial No.

8) Final note of the First member is put up.
Dewan Nagaraj 14/10
Dewan)

766
14.8.15

9) This may kindly be brought up at another meeting of Council.

10) It seems sufficient if the direction to write judgments in Kannada is given in the case of 3rd Class Magistrates only.

11) Is it quite necessary to compel Second class Magistrates, who are generally well versed in English, to write judgments in the vernacular?

30-9-15. RB

12) (If 2nd Cl Magts are to be left, there is little need for any direction at all)

2) I.C.S. ai Dewan 1/10

4/10/15 Dewan 5/10

5/10 Dewan 6/10

7.10.15 Dewan

14) The Resolution of the 6th Sep 1915 was confirmed in Council.
Dewan
17/11
CR 1911
SB 1911

15) Submitted with a draft Note of Submission
SB 1911
Dewan 29/11

Dewan)

2711
29.11.15

NOTE—Contn. sheet.

GPB—25,000—2-11-14

Final Note by the First Member of Council.

Subject:- Question of laying down that 2nd and 3rd class Magistrates should write their judgments in Kannada.

×Page 2 of file note.

16. In the Representative× Assembly of 1913, it was urged that the practice of the 2nd and 3rd class Magistrates writing out their judgments in English was causing much inconvenience and loss to the parties, and that it was desirable to direct them to write their judgments in Kannada. Messrs Chandrasekhara Iyer and Wallace who were consulted at the time considered it inexpedient to sanction the request, and the latter was also of opinion that when the Codes, Law Reports, and commentaries were all in English judgments must also be in English.

17 The proposal is not one which can be thus summarily --- dismissed. A rule may well be framed ~~with~~ at least all ----- Amildar Magistrates, at any rate those to whom a special dispensation is not given should write their judgments in the ---- language of the country. With a little practice, they will be able to do so, with at least as great facility as in English.

7

*Para 4 of this note.

18 The Council* accept the opinion that all Amildar ----- Magistrates may be required to write their judgments in Kannada.

H. Manjunadaya

First Member of Council.

Dated 12/8/15

Submitted to His Highness.

*Fly 2

19

I submit herewith a 'Final Note' by the First Member of Council on the question of requiring all 2nd and 3rd class Magistrates to write their judgments in Kannada. The subject was considered in Council on the 4th August 1915 and the opinion arrived at was that all Amildar - Magistrates might be required to write their judgments in Kannada.

* Para 4 of Offic note

2. As it seemed to me sufficient if the direction to write judgments in Kannada was given in the case of 3rd class Magistrates only, the question was again brought up at a meeting of the Council. The Council confirmed their resolution of the 4th August 1915.

* Page 5 of Offic note.

3. The proposal of the Council may be graciously approved.

M. Krishnaraja

30 Aug. 1915.

9

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Question of requiring all Amildar-Magistrates to write their judgments in Kannada.

499.

Order.

22 ~~KRW~~
4/12/15

Secretary
5/12/15
Draft

DRA 421-13

10

G. R. S. 12]

General and Revenue Secretariat. | C5 File No. 264 of 1916-15

Serial No.

23 Subd with a draft order.

Eg. 16/12/15

16/12/15 24 It Seems doubtful whether a rule of practice in this case will be sufficient. The Code of Criminal Procedure expressly provides that the Judgment shall be written in the language of the Court or in English. (S. 367). Under S 537, the rules framed by the Chief Court should not be inconsistent with the Code. It Seems therefore that any rules of practice framed in accordance with the views expressed in the draft order may be considered ultra vires.

25 The Chief Court were also consulted in regard to the question of obtaining signatures of parties to depositions and ~~had~~ expressed the opinion that a rules of practice can not be legally framed under the code, though in the Madras ~~the~~ case had been erred by such a rule. If approved, the Chief Court will be consulted in this matter also, and after obtaining their opinion, the question of legislation, if necessary, will be taken up.

Eg
17/12

First Member)

26 The Amildars as officers of Govt would be bound to

NOTE—Contn. sheet.

GPB—25,000—2-11-14

DRA 621-3

I. R. S. 12]

General and Revenue Secretariat. | Cl. File No. 264 of 1914-15

Serial No.

follow an order of Govt or of the Hr. Court. Moreover when they are directed to write in one of the two languages mentioned in the ~~Court~~ Code, Can the direction be held to be inconsistent with the Section of the Code? (Any authority?)

21/12/15

23/12/15

27) Please put up file relating to the dissenting deposition in which the Chief Court had given their opinion.

Cl 23/12

28) Cl. file 265 of 1914 containing the opinion of the Chief Court referred to above is linked hereto.

Paper under disposal in the linked file.

Cl 23/12

27) The proposed rule will remove the discretion now vested in the Court and thus will be inconsistent with the Code. The opinion of the Chief Court in the linked ~~Record~~ file seems also to support the above view.

Cl 23/12

First Member

NOTE—Contn. sheet.

GPB—20,000—30-6-15.

DRA 421-15

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191 .

Serial No.

30) It will be the better Course to amend the Code. After "or" in the beginning of l. 4 of S. 367 (Cr. Pr. Code) the words & symbols "£, unless the Government has otherwise directed, £" may be ✓ inserted.

31 Please draft & put this through along with the Change required in the linked file.

7/1/16

DRA 8/1

GS 8/1

32) Legislative action for the amendment of the Crim. Pro. Code has already been taken in the linked file. This file may be sent to the Legislative Section for taking extract for amending the Cr. Pro. Code as ordered herein.

11-1-16) Legn.

11-1-16.

NOTE—Contn. sheet.

GPE—20,000—30-6-15.

M.R.A. 421-13

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 32 of 1915.

Serial No.

33) Subm. with a draft Bill with statement of objects and reasons. The other file regarding the amendment to direct the taking of the signatures of the witnesses to their depositions has already been submitted to the Dewan with a draft submission note. The two Bills may be consolidated after approval before being referred to the Legis. council.

25/7/16

34) The two Bills may be consolidated.

As regards the amendment, as a general rule it may be directed the judgment may be ordered to be in Kannada, unless the Govt otherwise direct. The language may therefore be as follows:—

Every such judgment shall, except as otherwise expressly provided by this code be written by the presiding officer upon court in the language of the court, or, if Government specially direct, in English."

Eg
2 6/7

35) Trib Secretary Please get the other file & put the two together—

7/3/16

Dewan 9/7

Legis 9/3

NOTE—Contd. sheet.

GPB—70,000—17-12-15

DRA 421-17
linked with: Jud. 812-15

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 32 of 1915.

Serial No.

26) Subd. with a consolidated draft Bill. The other Bill has been approved by His Highness. After this Bill is approved, copy of the consolidated Bill will be sent to the Residency. ~~The draft~~

Please see linked file.

CB 18/3/16 RVL

37). May be approved

EB 18/3

First Member)

38) Approved.

31/3/16

Dewan 1/4

39) Orders

EB 1/4

40) Subd. with a draft D.O. to the Resident which has to issue from the Dewan's Office. The copy of the Bill for the Resident has to be attested.

41) In favour of Dewan's approach

CB 7/4/16 RVL

EB 7/4

Secy) Dewan)

Dewan 8/4

42) The matter may be further considered at a meeting of the present Council.

EB 8/4

C.S. on Dewan 28/4 27-4-16 RO

It is not known why these were dropped. 5408 The files 8.6.16 may be secured

NOTE—Contn. sheet.

GPB—73,000—8-15—28/12

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

This file was found among the old reference papers in the Legislative a few days ago. ...

... this connection why the legislation contemplated was not finished. Perhaps the matter was considered in a subsequent file & dropped.

After perusal, further reference if any on the subject will be attempted to be traced, with reference to the file heading of the Legislative Council Section

Asst
27/1

It will be seen from the Secretary's minute of 27-4-16 on the previous page that it had not been finally decided to proceed with the Bill & there seems to be no need to revive the matter now. Clause 1 of the Bill was intended to confer Magisterial powers to try the Municipal offences in Kannada. This amendment is unnecessary as Municipal Courts are empowered to try ~~all~~ the Mun. Magistrates who are only 3rd class Magistrates now & the Cr. Courts & the ~~Magistrates~~ generally write their judgments in Kannada. The 2nd. Clause also seems unnecessary as this

N. B.—Should routine notes be written on small slips the notes must be copied, or slips pasted on this form.

G. R. S. III—5]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

amendment was not made in Bo. India even when the Code was thoroughly revised there about 6 years ago - the papers will be received, if appd -

Secy)

24.1.29

24.1.29

24/1

24/1

N.B.—Should routine notes be written on small slips, the notes must be cipoed, or slips pasted on this form

Bill further to amend the Code of Criminal Procedure, 1904.

Whereas it is expedient further to amend the Code of Criminal Procedure, 1904; His Highness the Maharaja is pleased to enact as follows:-

Amendment of Sub-Section (1) of Section 360.

1. In subsection (1) of section 360 after the words "if he appears by pleader" the words "shall be signed by the witness" shall be inserted.

Amendment of Sub-Section (1) of Section 367 of the Code.

2. In sub-section (1) of section 367 of the code of Criminal Procedure, 1904, the words and symbols ", unless the Government has otherwise directed," shall be inserted between the words "or" and "in English."

Statement of objects and reasons.

- - - - -

The question of requiring the witnesses to sign their depositions was raised by the Representative Assembly in 1914 and it is considered desirable to amend the code of Criminal Procedure, 1904, so as to insist on this being done in all cases of evidence of witnesses taken under sections 356 and 357 of the Code.

Again it was also represented in the Representative Assembly that the practice of writing out judgments in English by 2nd and 3rd class Magistrates was causing much inconvenience and loss to the parties especially in places where it was difficult to find English-knowing men who could translate them into Kannada, and it was urged that the judgments be ordered to be written in Kannada.

As the representation seems reasonable clause 2 of the Bill is framed to amend sub-section (1) of section 367 of the code so as to provide for judgments being written in Kannada wherever Government so direct.

GKV.8

7/4/16